



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-L

SEP 29 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David Stice
Corporate Attorney
Sinclair Wyoming Refining Company
550 S. Temple
Salt Lake City, UT 841300825

Re: TSCA Complaint

Dear Mr. Hart:

I apologize for the brief period of time I left for you to consider, sign and return the combined complaint and consent agreement I previously sent. As we discussed, I had committed to filing this action by today. Accordingly, enclosed is a complaint and notice of opportunity for hearing for these violations. As I said, we appreciate the efforts of the company to disengage itself from the PCB program at this facility. Due to the history of such violations, I had envisioned filing a complaint proposing a substantial penalty. However, in light of the company's progress, and in consultation with the technical program, EPA will settle these claims for a penalty of \$8,000.

Rather than plead a higher amount in this complaint, I have inserted the \$8,000 figure contained in the combination document. Under the Rules of Practice, you may just send in a check for that amount to settle the proceeding. 40 C.F.R. § 22.18. Having now filed the complaint, if you prefer to sign an agreement, I will have to send you a consent agreement separate from the complaint.

Thank you for your cooperation. Please contact me for further discussion or questions. I can be reached at 303.312.6917, in writing at the address on the letterhead above, or via e-mail at janik.david@epa.gov.

Sincerely,

David J. Janik, Supervisory Attorney
Legal Enforcement Program

Enclosures



Printed on Recycled Paper

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY** 2006 SEP 29 PM 2:46
REGION 8

Docket No. TSCA-08-2006-0008

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:

Sinclair Wyoming Refining Co.,

Sinclair, Wyoming,

Respondent.

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COMPLAINT AND NOTICE OF OPPORTUNITY
FOR HEARING

COMPLAINT

GENERAL ALLEGATIONS

1. This is a civil administrative action commenced and concluded under the authority granted to the Administrator of the United States Environmental Protection Agency (EPA) by section 16 of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615, as properly delegated to the undersigned EPA officials. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits (Rules of Practice)," 40 C.F.R. part 22. 40 C.F.R. § 22.13(b). These general allegations apply to each count below.

2. Respondent is Sinclair Wyoming Refining Corporation, a "person" within the meaning of 40 C.F.R. § 761.3, and thus subject to regulation.

3. Respondent was, at all times relevant to this action, the owner and operator of a facility in Sinclair, Wyoming.

4. On or about June 22, 2006, Kim P. Le, an authorized EPA inspector, conducted an inspection of the Sinclair facility, with the consent of Respondent, to determine compliance with TSCA and EPA regulations relating to polychlorinated biphenyls (PCBs), 40 C.F.R. part 761. Notices of inspection and confidentiality were issued to representatives of Respondent. Factual allegations are as of that day.

5. The EPA's PCB regulations define "disposal" of PCBs to include "spills, leaks, and other uncontrolled discharges of PCBs...." 40 C.F.R. § 761.3

6. The PCB regulations require that PCBs be disposed of by the incineration or burial methods specified in the regulations. 40 C.F.R. §761.60. The PCB regulations also require that certain PCB equipment be stored in a specified manner. 40 C.F.R. § 761.65.

COUNTS 1-3

7. In the area south of the number 521 tank, three transformers (GE, serial numbers 8684677 and 8684676, and Westinghouse, serial number 6966426) were leaking fluid with PCB concentrations of over 50 parts per million (ppm).

8. Respondent's failure to properly dispose of the leaking PCBs described in the paragraph above, as required by 40 C.F.R. § 761.60, constitutes three violations of section 15 of TSCA, 15 U.S.C. § 2614.

COUNT 4

9. In the same area, the same Westinghouse transformer, serial number 6966426, was being stored for disposal on the ground, rather than in the PCB storage area.

10. Respondent's failure to properly store the leaking Westinghouse PCB transformer described in the paragraph above, as required by 40 C.F.R. § 761.65 constitutes another violation of section 15 of TSCA, 15 U.S.C. § 2614.

NOTICE OF OPPORTUNITY FOR A HEARING

4. Respondent has the right to a public hearing before an administrative law judge (ALJ) to disagree with (1) any fact stated (alleged) by EPA in the complaint, or (2) the appropriateness of the proposed penalty.

5. To disagree with the Complaint and assert your right to a hearing, Respondent must file a written answer (and one copy) with the Regional Hearing Clerk (999 18th Street, Suite 300, Denver, CO 80202) within 30 days of receiving this Complaint, and provide a copy to the enforcement attorney listed below. The answer must clearly admit, deny or explain the factual allegations of the Complaint, the grounds for any defense, the facts you may dispute, and your specific request for a public hearing. Please see section 22.15 of the Rules of Practice for a complete description of what must be in your answer. **FAILURE TO FILE AN ANSWER AND REQUEST FOR HEARING WITHIN 30 DAYS MAY WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND ASSESSMENT OF THE PENALTY PROPOSED IN THE COMPLAINT.**

QUICK RESOLUTION

6. Respondent may resolve this proceeding at any time by paying the specific penalty proposed in the Complaint. Such payment need not contain any response to, or admission of, the allegations in the Complaint. Such payment constitutes a waiver of respondent's right to contest the allegations and to appeal the final order. See section 22.18 of the Rules of Practice for a full explanation of the quick resolution process, including how extensions of time to pay can be obtained.

SETTLEMENT NEGOTIATIONS

7. EPA encourages discussing whether cases can be settled through informal settlement conferences. If you want to pursue the possibility of settling this matter, or have any other questions, contact the attorney listed below. **Please note that calling the attorney or requesting a settlement conference does NOT delay the running of the 30 day period for either paying the penalty or filing an answer and requesting a hearing.**

14. Section 16 of TSCA, 15 U.S.C. § 2615, and the regulations promulgated under section 6 of TSCA, 15 U.S.C. § 2605, as amended, authorize the assessment of a civil penalty of up to \$27,500 per day of violation for each violation of TSCA. In arriving at the amount of the penalty, EPA, as required by section 16(a)(2)(B) of TSCA, 15 U.S.C. 2615(a)(2)(b), has taken into consideration, to the extent known at this time, the nature, circumstances, extent, and gravity of the violation, and, with respect to respondent, the ability to pay, effect on ability to continue to do business, any history of prior violations, degree of culpability, and other matters as justice may require. Based on Respondent's past history regarding non-compliance at this facility, as well as the nature of these specific violations, including the actual or potential introduction of PCBs to the environment and/or exposure of PCBs to humans, EPA proposes a civil penalty of \$8,000 for these violations.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Office of Enforcement, Compliance, and
Environmental Justice,
Complainant.

Date: 29 Sept. 2006 By: David J. Janik

David J. Janik, Supervisory Enforcement Attorney
Legal Enforcement Program (ENF-L)
999 18th Street
Denver, CO 80202
303.312.6917
janik.david@epa.gov

Date: 9/29/06 By: Martin Hestmark

Martin Hestmark, Director
Technical Enforcement Program

IN THE MATTER OF:
DOCKET NUMBER:

SINCLAIR WYOMING REFINING COMPANY
DOCKET No. TSCA-08-2006-0008

CERTIFICATE OF SERVICE


The undersigned hereby certifies that the original and one true and correct copy of the ADMINISTRATIVE COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING was hand-carried to:

Region 8 Hearing Clerk
U.S. Environmental Protection Agency
999 18th Street, Suite 200
Denver, Colorado 80202-2466

And that a true and correct copy of the aforementioned document was sent via certified mail # 7005 0390 000 4847 8018, return receipt requested to:

David Stice
Corporate Attorney
Sinclair Wyoming Refining Company
550 South Temple
Salt Lake City, UT 84130-0825

Date: September 29, 2006



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